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Judge backs state seizure of 'unclaimed property'; He's satisfied with new efforts to notify owners of cash and other items in inactive accounts.

By Marc Lifsher, Times Staff Writer

A federal judge Thursday cleared the way for the state to once again seize people's inactive bank accounts, stock shares and the contents of safe-deposit boxes.

The order from U.S. District Court Judge William B. Shubb lifted his June 1 ruling that stopped the state from seizing "unclaimed property" whose possible owners or heirs were not being properly notified ahead of time.

The judge's action came in response to a new California law and increased efforts to contact owners of "unclaimed property" before it is taken.

The new law "appears to provide notice reasonably calculated to inform property owners of the impending seizure of their property and significantly lessens the likelihood of irreparable harm to plaintiffs," Shubb said.

He issued the original injunction June 1 at the direction of the U.S. 9th Circuit Court of Appeals. The court said citizens have a constitutional right to be notified of the possible loss of property.

State Controller John Chiang said he was pleased with the judge's ruling, calling it a vote of confidence in his drive to reform state laws that hobbled his office from attempting to reunite people with their money, stock and sometimes prized possessions.

"For two decades, misguided state laws restricted my office from contacting the owners of what amounted to more than 80% of all unclaimed property accounts sent to the state," Chiang said. "In August, that practice ended."

Since the late 1980s, the Legislature has come to rely on using hundreds of millions of dollars from the seizure and sale of unclaimed property to fill budget holes.

Chiang said he used his new authority to send out more than 70,000 notices to property owners, telling them to contact the state. He also announced that a reestablished special unit, charged with aggressively tracking down owners, already made positive contact with 3,100 people who have money coming to them.

"The state is moving quickly to put their property back in their hands, where it belongs," Chiang said.

An attorney for plaintiffs in a 2001 lawsuit against the state said he would appeal the decision and ask a higher court for a temporary restraining order to prevent Chiang from again asking financial institutions to turn over property.

The lawsuit challenged the constitutionality of the state's unclaimed property program, which currently is sitting on \$5.1 billion taken from dormant bank accounts, safe-deposit boxes and other sources.

The new law, attorney William W. Palmer said, "falls painfully short of the constitutional standard." He said plans to send notices to a property owner's last known address, based on state tax records, does not help people living out of state or overseas, who never paid taxes in California.

He complained that the state's practice of putting names of property owners on the Internet instead of publishing them in various newspapers is unfair to the elderly and other people "who don't surf the Web."

Palmer stressed that 60% of the approximately 8.7 million accounts seized by the state belonged to people over the age of 60.

Shubb, however, noted that the state's use of a searchable Internet site "is every bit as good or better" as publishing them in a newspaper.

State Finance Director Mike Genest said the new unclaimed property law and the judge's decision to lift his injunction are good for both property owners and the state. "We have taken steps to ensure that the program runs efficiently and helps reunite people with their property," Genest said.

The controller's office estimates that the new law will return an additional \$87 million to property owners during the current fiscal year, which ends June 30.

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